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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,495	10/31/2003	James A. Mooney	4003	9594

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NEW YORK, NY 10004

EXAMINER

KOHNER, MATTHEW J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/698,495

Applicant(s)

MOONEY ET AL.

Examiner

Matthew J. Kohner

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/18/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language, “wherein the screen assembly at at least two outer edges is formed into planar side planes extending parallel to a plane defined by respective first and second flanges” renders the claim indefinite.

First, the screen assembly comprises the first and second plate flanges. Therefore, it is unclear how the screen assembly, which is formed into planar side planes, can be parallel to itself (since the flanges are part of the screen assembly).

Secondly, the language, “planar side planes extending parallel to a plane defined by respective first and second flanges” is confusing since it is unclear which plane is defined by the flanges and therefore unclear with planes are parallel to that plane.

The claim is examined as best understood.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.

5,332,101 to Bakula (*hereinafter* “Bakula”).

In regard to claim 34, Bakula discloses a vibratory screen assembly comprising:

- a plate (27),
  - first and second side edge portions on said plate (the plate inherently has side edges),
  - first and second series of apertures (Col. 5, lines 32-33; see also Fig. 17) in said first and second side edge portions, respectively,
  - first and second plate flanges (25) on said plate located outwardly of said first and second series of apertures, respectively,
- an screen (22) on said plate, and
- first and second portions of said screen assembly spaced from and overlying said first and second apertures (See Fig. 17), respectively, and
  - secured between said plate and said first and second plate flanges, respectively (Col. 5, line 34; see also Fig. 17)
  - wherein the screen assembly at at least two outer edges is formed into planar side planes (col. 5, lines 34-35) extending parallel to a plane defined by respective first and second flanges (see Fig. 8).

Examiner notes that the term “finger receiving”, which describes the aperture, is an intended use and not given patentable weight.

***Response to Amendment / Arguments***

Applicant has amended claim 34. Applicant has argued that claim 34 defines over the prior art of record because in Bakula the channels (25) are placed overtop of any screen assembly and therefore Bakula does not disclose any configuration which provides for plate flanges (Applicant's remarks, page 1). Applicant further argues, Bakula does not disclose any configuration wherein the screen assembly at at least two outer edges is formed into planar side planes extending parallel to a plane defined by the respective first and second flanges (*Id.*).

In regard to Applicant's first argument, the channels (25) are formed from the ends apertured plate (27) (col. 5, lines 34-35). Therefore, the channels are part of the plate. Further, the apertured plate is considered part of the screen assembly as required by the claim language (see claim 34 which discloses, "A vibratory screen assembly comprising ... first and second plate flanges ..."). Therefore, the channels are part of the screen assembly. Hence, it is unclear how Applicant can argue the channels, *which themselves are part of the assembly*, are overtop of the assembly. Therefore, Applicant's argument is unpersuasive.

In regard to Applicant's second argument, it is unclear how the screen assembly can form into planar side planes parallel to the flanges. Since the flanges are part of the screen assembly, it is unclear how the screen assembly can be parallel to itself. Therefore, Applicant's argument is unpersuasive.

Finally, Examiner has reviewed the 132 affidavit filed with the amendment. Examiner again states that the term "finger receiving" which describes the aperture, is an intended use and not given patentable weight. Applicant has nowhere claimed the fingers which go into apertures. Applicant has not claimed any structure which describes the fingers. There is no structural

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feature in the claim regarding the apertures except the term apertures. Without any structural limitations regarding the apertures, at most the apertures must merely be capable of receiving any type, kind, etc. of fingers. The apertures of Bakula's plate are capable of receiving a finger.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-272-6939. The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjk

Matthew J. Kohner  
Examiner  
Art Unit 3653

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER